



EXHIBIT

IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE

IN RE: FREEPORT-MCMORAN)
COPPER & GOLD INC. DERIVATIVE) C.A. No. 8145-VCN
LITIGATION)

FINAL ORDER AND JUDGMENT

WHEREAS, a consolidated stockholder derivative action is pending in this Court entitled *In re: Freeport-McMoRan Copper & Gold Inc. Derivative Litigation*, C.A. No. 8145-VCN (the “Action”);

WHEREAS, (a) plaintiffs Dauphin County Employee Retirement Fund; State-Boston Retirement System; Amalgamated Bank as Trustee for the LongView LargeCap 500 Index Fund, LongView LargeCap 500 Index VEBA Fund, LongView Quantitative LargeCap Fund and LongView Quantitative LargeCap VEBA Fund; and City of Roseville Employees’ Retirement System (collectively, “Plaintiffs”); and (b) individual defendants James R. Moffett, Richard C. Adkerson, Gerald J. Ford, Robert Addison Day, the estate of B.M. Rankin, Jr., H. Devon Graham, Jr., Robert J. Allison, Jr., Charles C. Krulak, Bobby Lee Lackey, Jon C. Madonna, Dustan E. McCoy, Stephen H. Siegele, Kathleen L. Quirk and James C. Flores (collectively, the “Settling Defendants”) have entered into a Stipulation and Agreement of Settlement, Compromise and Release dated January

12, 2015 (the “Stipulation”) that provides for a complete dismissal with prejudice of the claims asserted against the Settling Defendants in the Action on the terms and conditions set forth in the Stipulation, subject to the approval of this Court;

WHEREAS, on January 22, 2015, the Court entered a scheduling order (the “Scheduling Order”) in accordance with the Stipulation, approving the form and content of the notice of the Settlement to Freeport Stockholders and scheduling the date and time for the settlement fairness hearing (the “Settlement Hearing”) for April 7, 2015 at 2:00 p.m. at the Court of Chancery of the State of Delaware, Dover, Delaware;

WHEREAS, Plaintiffs indicated a desire to pursue the Credit Suisse Claims derivatively on behalf of Freeport against Credit Suisse Securities (USA) LLC (“Credit Suisse”);

WHEREAS, on March 10, 2015, Plaintiffs, the Settling Defendants, and Credit Suisse (each a “Party” and, collectively, the “Parties”) entered into an Addendum to the Stipulation (the “Addendum”), which amended certain provisions in the Stipulation to reflect the settlement reached between Plaintiffs, Credit Suisse, and Settling Defendants;

WHEREAS, by Order dated _____, 2015 (the “Supplemental Scheduling Order”), this Court, among other things, (a) ordered that notice of the Addendum be provided to Freeport Stockholders; and (b) provided Freeport

Stockholders with the opportunity to object to the proposed Settlement, as amended by the Addendum;

WHEREAS, the Court conducted the Settlement Hearing on April 7, 2015 to consider, among other things, (a) whether Plaintiffs and Plaintiffs' Counsel have adequately represented the interests of Freeport and its stockholders; (b) whether the proposed Settlement on the terms and conditions provided for in the Stipulation, as amended by the Addendum, is fair, reasonable and adequate to Plaintiffs, Freeport and Freeport's stockholders, and should be approved by the Court; (c) to determine whether a judgment should be entered dismissing the Action with prejudice; and (d) whether the application by Plaintiffs' Counsel for an award of attorneys' fees and reimbursement of litigation expenses should be approved; and

WHEREAS, it appearing that due notice of the hearing has been given in accordance with the Scheduling Order and Supplemental Scheduling Order; the Parties having appeared by their respective attorneys of record; the Court having heard and considered evidence in support of the proposed Settlement; the attorneys for the respective Parties having been heard; an opportunity to be heard having been given to all other persons requesting to be heard in accordance with the Scheduling Order and Supplemental Scheduling Order; the Court having determined that notice to Freeport Stockholders was adequate and sufficient; and

the entire matter of the proposed Settlement having been heard and considered by the Court;

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, this ___ day of _____, 2015, as follows:

1. **Definitions:** Unless otherwise defined in this Judgment, the capitalized terms used herein shall have the same meaning as they have in the Stipulation, as amended by the Addendum.

2. **Jurisdiction:** The Court has jurisdiction over the subject matter of the Action, and all matters relating to the Settlement, as well as personal jurisdiction over all of the Parties and the Freeport Stockholders.

3. **Incorporation of Settlement Documents:** This Judgment incorporates and makes a part hereof: (a) the Stipulation filed with the Court on January 15, 2015; (b) the Notice, which was filed with the Court on _____, 2015; (c) the Addendum filed with the Court on March 13, 2015; and (d) the Supplemental Notice, which was filed with the Court on _____, 2015.

4. **Derivative Action Properly Maintained; Adequacy of Plaintiffs and Plaintiffs' Counsel:** Based on the record in the Action, each of the provisions of Court of Chancery Rule 23.1 has been satisfied and the Action has been properly maintained according to Court of Chancery Rule 23.1. Plaintiffs and Plaintiffs'

Counsel have adequately represented the interests of Freeport and its stockholders both in terms of litigating the Action and for purposes of entering into and implementing the Settlement.

5. **Notice:** The Court finds that the mailing and publication of the Notice and publication of the Supplemental Notice: (a) were implemented in accordance with the Scheduling Order and Supplemental Scheduling Order; (b) constituted notice that was reasonably calculated, under the circumstances, to apprise Freeport Stockholders of: (i) the pendency of the Action; (ii) the effect of the proposed Settlement (as amended by the Addendum) (including the Releases to be provided thereunder); (iii) Plaintiffs' Counsel's application for an award of attorneys' fees and reimbursement of litigation expenses; (iv) their right to object to the Settlement and/or Plaintiffs' Counsel's application for attorneys' fees and litigation expenses; and (v) their right to appear at the Settlement Hearing; (c) constituted due, adequate and sufficient notice to all persons and entities entitled to receive notice of the proposed Settlement; and (d) satisfied the requirements of Court of Chancery Rule 23.1, the United States Constitution (including the Due Process Clause), and all other applicable laws and rules.

6. **Final Settlement Approval and Dismissal of Claims:** Pursuant to, and in accordance with, Court of Chancery Rule 23.1, this Court hereby fully and finally approves the Settlement set forth in the Stipulation and Addendum in all

respects (including, without limitation: the Settlement consideration; the Releases, including the release of the Released Plaintiffs' Claims as against the Released Defendant Parties; and the dismissal with prejudice of the claims asserted in the Action), and finds that the Settlement is, in all respects, fair, reasonable and adequate to Plaintiffs, Freeport and Freeport's stockholders. The Parties are directed to implement, perform and consummate the Settlement in accordance with the terms and provisions contained in the Stipulation and Addendum.

7. The Action and all of the claims asserted in the Action by Plaintiffs are hereby dismissed with prejudice. The Parties shall bear their own costs and expenses, except as otherwise expressly provided in the Stipulation and Addendum.

8. **Binding Effect:** The terms of the Stipulation and Addendum and of this Judgment shall be forever binding on the Settling Defendants, Freeport, Credit Suisse, Plaintiffs and all other Freeport Stockholders, as well as their respective successors and assigns.

9. **Releases:** The Releases set forth in paragraphs 6 and 7 of the Stipulation and Paragraph 7 of the Addendum, together with the definitions contained in paragraph 1 of the Stipulation relating thereto, as amended by the Addendum, are expressly incorporated herein in all respects. The Releases are effective as of the Effective Date. Accordingly, this Court orders that:

(a) Without further action by anyone, and subject to Paragraph 10 below, upon the Effective Date, Plaintiffs and each and every Freeport Stockholder, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns, in their capacities as such only, derivatively on behalf of Freeport, and Freeport directly, by operation of the Stipulation, as modified by the Addendum, and this Judgment and to the fullest extent allowed by law, shall completely, fully, finally and forever release, relinquish, settle and discharge each and all of the Released Defendant Parties from any and all of the Released Plaintiffs' Claims, and shall forever be barred and enjoined from commencing, instituting or prosecuting any of the Released Plaintiffs' Claims against any of the Released Defendant Parties.

(b) Without further action by anyone, and subject to Paragraph 10 below, upon the Effective Date of the Settlement, the Settling Defendants, on behalf of themselves, and their respective heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such only, by operation of the Stipulation, as modified by the Addendum, and this Judgment and to the fullest extent allowed by law, shall completely, fully, finally and forever release, relinquish, settle and discharge each and all of the Released Plaintiff Parties from any and all of the Released Defendants'

Claims, and shall forever be barred and enjoined from commencing, instituting or prosecuting any of the Released Defendants' Claims against any of the Released Plaintiff Parties.

(c) Without further action by anyone, and subject to Paragraph 10 below, upon the Effective Date of the Settlement, Credit Suisse, on behalf of itself, and its heirs, executors, administrators, predecessors, successors, and assigns in their capacities as such only, by operation of the Stipulation, as modified by the Addendum, and this Judgment and to the fullest extent allowed by law, shall completely, fully, finally and forever release, relinquish, settle and discharge each and all of Freeport, the Released Defendant Parties, and the Released Plaintiff Parties from any and all of the Released Credit Suisse Claims, and shall forever be barred and enjoined from commencing, instituting or prosecuting any of the Released Credit Suisse Claims against any of Freeport, the Released Defendant Parties, and the Released Plaintiff Parties.

10. Notwithstanding Paragraphs 9(a)-(c) above, nothing in this Judgment shall bar any action by any of the Parties to enforce or effectuate the terms of the Stipulation or this Judgment.

11. **Bar Order:** Pursuant to 10 Del. C. § 6304(b), this Judgment relieves the Settling Defendants and Credit Suisse from liability to make contribution to

any joint tortfeasors for any contribution claim or any other claim in which the injury claimed is the claimant's actual or threatened liability to Freeport, arising out of or relating to the claims asserted in, or arising out of the subject matter of, the Action ("Barred Claims").

12. Pursuant to 10 Del. C. § 6304(b), the damages that Freeport may recover against any Person established at trial to be a joint tortfeasor of the Settling Defendants and/or Credit Suisse with respect to claims asserted in, or arising out of the subject matter of, the Action shall be reduced to the extent of the *pro rata* share of the Settling Defendants and/or Credit Suisse.

13. **No Admissions:** Neither this Judgment, the Stipulation, the Addendum, nor any act or omission in connection therewith is intended or shall be deemed to be a presumption, concession or admission by: (i) any of the Settling Defendants, Credit Suisse, or any of the other Released Defendant Parties as to the validity of any claims, defenses, other issues raised, or which might be or have been raised, in the Action or in any other litigation, or to be evidence of or constitute an admission of wrongdoing or liability by any of them, and each of them expressly denies such wrongdoing or liability; or (ii) Plaintiffs as to the infirmity of any claim or the validity of any defense, or that damages in the Action would not have exceeded the Escrow Amount. The existence of this Judgment, the Stipulation and Addendum, their contents or any negotiations, statements or

proceedings in connection therewith, shall not be offered or admitted in evidence or referred to, interpreted, construed, invoked or otherwise used by any Person for any purpose in the Action or otherwise, except as may be necessary to effectuate the Settlement. This provision shall remain in force in the event that the Settlement is terminated for any reason whatsoever. Notwithstanding the foregoing, any of the Released Parties may file the Stipulation and Addendum or this Judgment in any other action that may be brought against them, in order to support any and all defenses or counterclaims based on *res judicata*, collateral estoppel, good-faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim.

14. **Award of Attorneys' Fees and Expenses:** Plaintiffs' Counsel are hereby awarded attorneys' fees and litigation expenses in an aggregate amount of \$_____, to be paid from the Escrow Amount and the Credit Suisse Amount, which sum the Court finds to be fair and reasonable.

15. No proceedings or court order with respect to the award of attorneys' fees and expenses to Plaintiffs' Counsel shall in any way disturb or affect this Judgment (including precluding this Judgment from being Final or otherwise being entitled to preclusive effect), and any such proceedings or court order shall be considered separate from this Judgment.

16. **Retention of Jurisdiction:** Without affecting the finality of this Judgment in any way, this Court retains continuing and exclusive jurisdiction over the Parties, Freeport and all Freeport stockholders for purposes of the administration, interpretation, implementation, and enforcement of the Settlement.

17. **Modification of the Stipulation and Addendum:** Without further approval from the Court, Plaintiffs, the Settling Defendants, and/or Credit Suisse are hereby authorized to agree to and adopt such amendments or modifications of the Stipulation, Addendum, or any exhibits attached thereto to effectuate the Settlement that: (a) are not materially inconsistent with this Judgment; and (b) do not materially limit the rights of the Parties, Freeport or Freeport stockholders in connection with the Settlement. Without further order of the Court, Plaintiffs and the Settling Defendants and/or Credit Suisse may agree to reasonable extensions of time to carry out any provisions of the Settlement.

18. **Termination of Settlement:** If the Settlement is terminated as provided in the Stipulation and Addendum, this Judgment shall be vacated, rendered null and void and be of no further force and effect, except as otherwise provided by the Stipulation and Addendum, and this Judgment shall be without prejudice to the rights of Plaintiffs, all other Freeport stockholders, Freeport, the Settling Defendants, or Credit Suisse, and (a) Plaintiffs and the Settling Defendants shall be restored to their respective positions in the Action immediately prior to the

execution of the Term Sheet, as provided in the Stipulation and (b) Plaintiff, Freeport and Credit Suisse shall be restored to their respective positions with respect to the Credit Suisse Clams as immediately prior to the execution of the Addendum, as provided in the Addendum. For the avoidance of doubt, the Addendum constitutes a material part of the Settlement for purposes of paragraph 14 to the Stipulation, and all Parties shall have the right to terminate the Settlement in its entirety pursuant to paragraph 14 of the Stipulation as amended by the Addendum upon any order vacating, modifying, revising or reversing this Judgment with respect to the terms of the Stipulation and/or Addendum becoming Final.

19. **Entry of Final Judgment:** There is no just reason to delay the entry of this Judgment as a final judgment in the Action. Accordingly, the Register in Chancery is expressly directed to immediately enter this final judgment in the Action.

Vice Chancellor John W. Noble